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TAGS: [PGOV](#) [PHUM](#) [KJUS](#) [KDEM](#) [FT](#)
SUBJECT: JAILED ETHIOPIAN OPPOSITION LEADERS AWAIT TRIAL ON
TREASON CHARGES

Classified By: CHARGE D'AFFAIRES VICKI HUDDLESTON. REASON: 1.4 (D).

¶1. (SBU) SUMMARY. On December 21, seven weeks after being detained by the Government as anti-government demonstrations rocked the capital, senior leadership of the opposition Coalition for Unity and Democracy (CUD), along with independent journalists and members of civil society organizations, finally received formal charges. As the presiding judge refused defense requests to read the charges against each defendant in the courtroom, and defense counsels have limited access to detainees, specific charges facing individual defendants remain unknown. However, the Government states that the 57 defendants in custody, who the Government alleges are part of a larger group of 131 individuals wanted for prosecution, face varying counts of treason, armed uprising, attacking the integrity of the state, and even genocide, all of which are capital crimes that could result in either life imprisonment or the death penalty. The defendants remain in custody; several have serious health conditions, but none appear to be life-threatening. Those named by the Government as remaining at large include several Voice of America (VOA) correspondents and cultural performers, most of whom live abroad. Despite five appearances in court over the last seven weeks, defendants remain in custody without bail. CUD leaders are held in individual cells (while others are held with numerous other detainees) at a special detention facility. Although ICRC has not had access to them or this facility, family members, lawyers, and an Ethiopian human rights group have been in continued contact. So far, the Government has not formally presented evidence against the defendants. Defense counsels believe that the court lacks independence and has prejudged the outcome of what they allege are politically motivated charges against a peaceful opposition movement; the defense counsels also cite the lack of precedence for any type of plea bargain, and the court's continued delays in ruling on bail. International observers, including USG representatives, have been present at recent court proceedings. END SUMMARY.

CUD LEADERS, JOURNALISTS, NGO REPS MAY FACE TREASON

¶2. (U) Detainees include prominent members of the opposition CUD party, including: CUD chairman Hailu Shawel; CUD vice chair Bertukan Mideksa; CUD secretary general Muluneh Eyoel; CUD executive committee members Dr. Yacob Hailemariam, Dr. Befekadu Degfe, Gizachew Sheferaw, and Mayor Getachew

Mengiste; Prof. Mesfin Woldemariam and Addis Ababa mayor-elect Dr. Berhanu Nega, who faced treason charges in 2001 after establishing the Ethiopian Human Rights Council; and numerous members of the CUD's supreme council. The detainees also include at least four newspaper editors or owners (Andualem Eyele of "Ethop," Nardos Meaza of "Satenaw," and Dawit Kebede and Feleke Tibebe of "Hadar"); Netsanet Demissie, Executive Director of the Organization for Social Justice in Ethiopia, who also served as Chairman of the Consortium of Civil Society Organizations to Monitor (the June 2005) elections; and Daniel Bekele, Policy Director of the NGO, ActionAid Ethiopia, which receives funding for civic education from the UK Embassy. (NOTE: In a December 21 statement, the NGO Reporters Without Borders reports that 13 journalists are among the defendants, and that Ethiopia has more imprisoned journalists (17) than any other country in Africa. END NOTE.)

¶3. (U) On December 21, some 57 defendants appeared for the fifth time in court. Many have been held in solitary confinement since being detained in early November. Earlier court decisions gave the police 14 days to gather additional evidence, then another 10 days to gather evidence, then instructed prosecutors to formally present charges in 14 days; formal charges were therefore expected to be announced December 16. On December 21, the court proceedings focused on whether defendants would be given the names and addresses of the 367 witnesses whom prosecutors said they would call; prosecutors argued that witnesses' identities needed to be protected, in order to shield them from retribution. Defense counsel and defendants themselves (including Bertukan Mideksa, a judge and CUD vice chair) argued that witnesses should be identified, but even if there were not, the issue should not be an excuse for prosecutors to delay presenting defendants with formal charges (prosecutors questioned whether the names of witnesses should

be appended to the individual dossiers that were to be given to each defendant). The December 21 court session concluded with court officials handing each of the 57 defendants individual dossiers specifying what charges they faced. The presiding judge rejected defense requests to have the charges formally read in court, but said defendants faced the following counts under the Ethiopian penal code (some face all seven counts, some face fewer):

-- Article 237: Revocation of the Decision (which specifies conditions for a "fresh sentence to capital punishment or rigorous punishment");
-- Article 238: Outrages against the Constitution or the Constitutional Order (punishable by 3-25 years, or "in serious crises against public security or life," by "life imprisonment or death");
-- Article 239: Obstruction of the exercise of Constitutional Powers (punishable by no more than 15 years imprisonment);
-- Article 240 (2): Armed Rising (sic) or Civil War (punishable by life imprisonment or death);
-- Article 241: Attack on the Political or Territorial Integrity of the State (punishable by 10-25 years "or in cases of exceptional gravity, life imprisonment or death");
-- Article 248: High Treason (punishable by 5-25 years imprisonment, "or in cases of exceptional gravity, with life imprisonment or death");
-- Article 269: Genocide (punishable by 5-25 years imprisonment, "or in more seious cases, with life imprisonment or death").

¶4. (U) Prosecutors in the December 21 proceeding stated that the 57 defendants were part of a larger group of 131, some of whom were abroad. Among those named as being sought by the Government were at least 2 VOA correspondents believed to be in the United States (Solomon Kifle and Tiza Belachew), author Negebe Goeze (believed to reside in Europe), actor Tamgne Beyene, and Aregawi Berhe (former chairman of the TPLF in the 1970s, and now a political scientist in the Netherlands). Prosecutors also said legal entities accused of crimes include the CUD, the Rainbow party, constituent parties of the CUD, and several publishing companies (presumably publishers of anti-government newspapers);

prosecutors did not provide additional details. In court sessions to date, prosecutors have not yet presented any evidence or made any arguments about specific criminal acts the defendants are alleged to have committed; a dossier held by court officials and reviewed by diplomatic observers on December 21 appeared to be comprised primarily of internal CUD documents (such as minutes of meetings), and a compilation of newspaper articles from local media, all in Amharic. In other contacts with Embassy officials, however, the Government contends it has hundred of video tapes as well as other evidence of insurrection.

DEFENSE ATTORNEYS FEAR DEATH PENALTY MAY BE IMPOSED

¶5. (C) While noting that Ethiopia's last execution occurred two to three years ago (of a man convicted of murdering a senior government official), lead attorneys for the detained opposition members have expressed concerns that the Government may seek the death penalty (we believe this unlikely). In a November 28 meeting with Charge and visiting AF DAS Amb. Donald Yamamoto, lead defense counsel Teshome Gabre-Mariam Bokan said that statements made by the GOE's criminal investigator during earlier remand hearings, as well as reports in state-run media, suggested that those detained would likely face prosecution under the articles named above (NOTE: Teshome correctly predicted all the charges, except for "revocation" and genocide. Genocide charges may apply to defendants the Government contends are associated with the Derg, e.g., Hailu Shawel and Professor Mesfin Woldemariam, and their activities at that time. END NOTE.) Teshome underscored the need for a political, rather than legal, solution to the GOE's detention of CUD leaders and other opposition members "It would be a mockery of justice to think they would get a fair trial," he said, asserting further that "the judges are hand-picked party cadres" and expressing concerns that "evidence can be manufactured." Fellow defense attorney Getachew Kitaw noted that the GOE and ruling EPRDF party had already (i.e., in November) begun denouncing the defendants in state-run media, and that the House of People's Representatives had already received a report from the Federal Police declaring them criminals.

GOVERNMENT RESTRICTS ACCESS TO DETAINED OPPOSITION LEADERS

¶6. (SBU) Both defense attorneys and immediate family members complain that they have had limited access to the detainees, who are not being held in a regular detention facility. Family are allowed regular visits several times a week, but the number who may visit at one time is restricted. Defense attorneys are allowed to visit the detention center two days a week (Wednesdays and Fridays), and have been confined to a single room where only one attorney is allowed to meet with one defendant at a time (authorities have recently decided to allow two attorneys to meet with two defendants at any given time). Individual meetings are limited to 30 minutes duration. As court proceedings occur during the morning, defense attorneys are effectively limited to visiting for three hours in the afternoon, two days a week, and, at most, can see 12 detainees a week. Defense attorneys have therefore had difficulty ensuring that each of the dozens of detainees have had the opportunity to consult with legal counsel. On December 16, the presiding judge recommended that detainees be given additional access by defense counsel and family members.

¶7. (SBU) Post has made three formal requests via note verbale to Foreign Minister Seyoum, requesting access to detainees. One requested consular access to detainees that are legal permanent residents of the United States. (NOTE: Despite strong ties to the United States, e.g., Berhanu Nega's wife is an Amcit and several detainees were prominent academics at U.S. universities, none of the detainees are U.S. citizens. Ethiopia does not allow dual citizenship; Ethiopians, if they accepted U.S. citizenship, would not be allowed to hold

political office in Ethiopia. END NOTE.) Another request sought access to detained CUD leaders for visiting AF DAS. On November 18, Charge, as chair of the Ambassadors' Donors Group, formally requested that the Government allow representatives of the international community to visit Dedessa, a Derg-era military facility where at least 18,000 individuals seized during mass arrests in Addis Ababa were being detained. While the Government has provided no formal written response to any of these requests, Grum Abay, the MFA's director for North America and Europe, informed Charge and DAS Yamamoto that all such requests went to Prime Minister Meles, and that he had denied them. The Government states that detainees at Dedessa have been released or transferred, and that 3,000 remain jailed for minor offenses (e.g., rock throwing) and will be released within a few months.

¶8. (C) As of one week ago, ICRC Head of Delegation reported that ICRC had not had access to the detention facility (where Berhanu Nega and other CUD leaders are being detained) in Addis Ababa for the last 16 months; ICRC has also not been allowed access to Dedessa, although the Government does grant ICRC access to approximately 250 other prison facilities throughout the country. Ethiopian religious leaders, including the director of the Ethiopian NGO Prison Fellowship, have visited both facilities; lawyers and family members have visited the facility in Addis Ababa.

9.(U) On December 21, the presiding judge reiterated his recommendation that the 57 defendants be transferred to a different facility; however, previous recommendations have been ignored by the federal police. During the December 21 proceedings, police officials only announced that the defendants would be moved to an undisclosed location; defendants complained that their personal belongings had already been transferred without their consent. Family members later learned that the 57 defendants may be moved to Kerchele, an Italian-built facility used as Addis Ababa's main prison from the 1930s to 2004. The Government was to vacate Kerchele and hand over the facility to the AU, but has continued to use Kerchele, following the mass arrests conducted after November anti-government disturbances in Addis Ababa. Another possible site is Kaliti, located on the outskirts of Addis Ababa: built by the Communist Derg regime as a food processing facility for the army, and now used as a prison for Derg and other former high officials.

SELF-IMPOSED HUNGER STRIKE HARMING HEALTH OF OLDEST DETAINEE

¶10. (C) At age 75 (DOB: April 1930), Professor Mesfin Woldemariam, a former professor of geography at Addis Ababa University, ex-Derg official, and founder of a prominent human rights organization, is the oldest of the CUD and opposition leaders detained by the Government in Addis Ababa in early November. His daughter Zesimeyit Mesfin, reported that as of November 30 Prof. Mesfin had "lost half of his body weight," due to his refusal to eat anything except coffee, water, and an apple a day, since his November 1 arrest. She said she was "shocked" at his appearance, when she was allowed a 45-minute meeting with him on November 26. Asked whether Prof. Mesfin would accept a hypothetical amnesty or pardon, Zesimeyit said her father would not, as it would be an acknowledgement of guilt. "He would never leave this country, even for medical reasons," she said, noting that her father suffered a collapsed spinal disk in January, had been bedridden since July, and now walks with a cane, but refuses to take any medication.

¶11. (C) According to his daughter, Prof. Mesfin "fasted" in 2001 as well, when he was detained for 1 month with Dr. Berhanu Nega on charges of treason, following daily denunciations in state-run media related to his role in establishing the Ethiopian Human Rights Council (EHRCO). Shawel Hailu, the adult son of CUD chairman Hailu Shawel, asserted that the 2001 treason charges were part of a Government strategy to keep both Mesfin and Berhanu out of

politics. In 2001, the Government released Mesfin and Berhanu Nega on bail, following pleas from the USG, relatives say, citing a phone call from then AF A/S to Prime Minister Meles. Neither Mesfin nor Berhanu faced trial for the 2001 treason charges, although the Government held proceedings on the 2001 charges two weeks ago. Family members do not believe release on bail will be allowed now, however, as they likely face aggravated charges of treason for which prosecutors may seek the death penalty.

¶12. (SBU) Zesimieyit underscored that her father, while long a human rights activist and an outspoken critic of the GOE, was not a member of the executive committee of the opposition CUD party. She also refuted allegations that he had worked with the former Marxist Derg regime, claiming instead that he had actually contributed to the Derg's fall by presenting a document on reconciliation to the Institute of Ethiopian Studies that later became a petition signed by many opposed to the Derg.

¶13. (SBU) Prof. Mesfin appeared in court on December 21, delivering a brief statement complaining that the court's refusal to identify the 367 prosecution witnesses it said it would present, constituted a violation of human rights. Mesfin also criticized the court's repeated delays in ruling on bail, and asserted that if the court continued to violate its own procedure, then defendants would have no need for defense counsel, as they were not being permitted to do anything. Mesfin appeared frail; it is not clear whether he has continued or limited his hunger strike. Hailu Shawel also suffers from serious health conditions; according to his son, he suffers from diabetes, a sciatic nerve, and high blood pressure. Hailu Shawel was hospitalized and did not appear in court on December 16, but did appear in court on December 21.

FAMILY MEMBERS CITE IMPORTANCE OF USG INTERVENTION

¶14. (SBU) Immediate family members of prominent CUD detainees hail the importance of USG intervention in freeing Professor Mesfin Woldemariam and Dr. Berhanu Nega when they faced treason charges in 2001. They also seek assistance from international human rights groups, stating that Western attorneys could provide information on international human rights standards to the Ethiopian defense counsels. Lead defense counsel Teshome Gabre-Mariam Bokan notes that defense counsels (16 were present on December 21) had been working pro bono until now, as the defendants were held "incommunicado". Now that the 57 defendants are formally charged, and face different counts, defending them individually will be more challenging. Teshome said that the defense attorneys are demoralized, unsure how they mount a defense, and question the independence of the three-judge panel hearing the case. Attorneys question what their purpose is, noting there is neither any incentive nor any precedent in Ethiopia to plea bargain.

¶15. (C) COMMENT: Recent proceedings, although conducted entirely in Amharic, have been open to the public and print media, and observed by several dozen representatives of foreign diplomatic missions. However, observers and defense counsels alike are concerned that the court may not be observing even Ethiopia's own criminal procedure: defendants have been held for seven weeks before receiving formal charges, and that the court has continually delayed consideration of bail. The prosecutors' announcement that the 57 defendants will be charged individually, that they are part of a larger group of 131 sought for prosecution, and that the Government will call 367 witnesses, suggests that final resolution of this trial could take years. Public agitation with the Government's case against the CUD leaders and others is growing: approximately 1,000 family members and students from nearby Addis Ababa University demonstrated at the entrance to the court compound on December 21; the following day, police dispersed rock-throwing high school

students protesting against the opposition's detention. END
COMMENT.
HUDDLESTON